

Unit B142: Civil courts and civil processes. Civil liberties and human rights

**Specimen Mark Scheme**

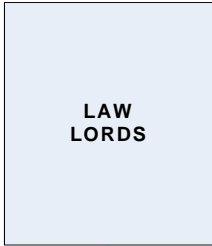


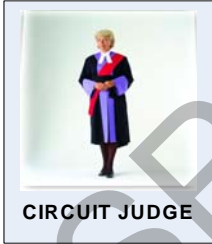

The maximum mark for this paper is **60**.

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Question Number	Answer	Max Mark																				
1(a)	<p><b>Assessment Objective 1</b></p> <table><tr><th>Form of ADR</th><th>Definition 1</th><th>Definition 2</th><th>Definition 3</th></tr><tr><td></td><td>Both parties voluntarily submit themselves to the binding decision of a third party</td><td>A neutral third party assists the parties to reach a compromise without 'imposing' a solution</td><td>A neutral third party becomes actively involved in the dispute by raising issues and making suggestions about possible grounds of compromise</td></tr><tr><td>Mediation</td><td></td><td><input checked="" type="checkbox"/></td><td></td></tr><tr><td>Conciliation</td><td></td><td></td><td><input checked="" type="checkbox"/></td></tr><tr><td>Arbitration</td><td><input checked="" type="checkbox"/></td><td></td><td></td></tr></table>	Form of ADR	Definition 1	Definition 2	Definition 3		Both parties voluntarily submit themselves to the binding decision of a third party	A neutral third party assists the parties to reach a compromise without 'imposing' a solution	A neutral third party becomes actively involved in the dispute by raising issues and making suggestions about possible grounds of compromise	Mediation		<input checked="" type="checkbox"/>		Conciliation			<input checked="" type="checkbox"/>	Arbitration	<input checked="" type="checkbox"/>			[3]
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1(b)	<p><b>Assessment Objective 3</b></p> <p>Candidates may include any of the following typical points:</p> <ul style="list-style-type: none"><li>• Efficient (compared to civil litigation)</li><li>• Private</li><li>• Avoids bad publicity</li><li>• Especially useful in certain areas (e.g. family &amp; employment) and where emotional/business relationships need to be maintained</li><li>• Not bound by a system of precedent and therefore free to make case by case decisions</li><li>• Informal but leaves the parties in control instead of the courts</li><li>• Expertise ... some ADR (especially arbitration) allows use of relevant practical expertise</li><li>• Can 'narrow down' the legal issues even if it doesn't work</li><li>• Avoids confrontation, bad feeling and seeks common ground between parties</li></ul> <p>0 marks – no response or response not worthy of credit</p> <p>Level 1 (1 mark): any basic point</p> <p>Level 2 (2 marks): any adequate point(s)</p> <p>Level 3 (3 marks): any good point(s) with some development or a few points without development</p>	[3]																				

Question Number	Answer	Max Mark
2(a)(i)	<b>Assessment Objective 1</b> Small Claims Track	[1]
2(a)(ii)	<b>Assessment Objective 2</b> Kevin is liable in negligence / <b>BREACH OF CONTRACT</b> / defamation. This is because the agreement to buy the car was based on a misrepresentation (a false statement) of the car's mileage. The reason Zainab will have to use the track you have chosen above is because <b>THE CASE INVOLVES LESS THAN £1,000</b> / the case will need a 5 day hearing / the case needs the expertise of a specialist judge. The case is most likely to be heard in <b>THE LOCAL COUNTY COURT</b> / the High Court / the local Magistrates' court.	[3]
2(a)(iii)	<b>Assessment Objective 1</b> Fast Track	[1]
2(a)(iv)	<b>Assessment Objective 2</b> The manufacturer of the drink is liable in <b>NEGLIGENCE</b> / breach of contract / defamation. This is because it owes a duty of care to the eventual consumer of its products. The reason Simon will have to use the track you have chosen above is because <b>THE CASE INVOLVES MORE THAN £5,000 BUT LESS THAN £15,000</b> / the case can be heard informally by a district judge / the case will need the expertise of a specialist judge. The case will be most likely to be heard in <b>THE LOCAL COUNTY COURT</b> / the High Court / the local Magistrates' court.	[3]
2(a)(v)	<b>Assessment Objective 1</b> Multi Track	[1]
2(a)(vi)	<b>Assessment Objective 2</b> Keith is liable in negligence / breach of contract / <b>DEFAMATION</b> . This is because he has published an untrue statement which has affected the reputation of the Bishop. The reason the Bishop will have to use the track you have chosen above is because <b>THE CASE INVOLVES A CLAIM FOR DAMAGES OF OVER £15,000 AND ASSESSING HARM TO A PERSON'S REPUTATION MAY NEED TO BE CONSIDERED BY A JURY</b> / the lawyers costs will need to be kept to a fixed maximum / the case need only be heard informally. The case will be most likely to be heard in the local County court / <b>THE HIGH COURT</b> / the local Magistrates' court.	[3]

Question Number	Answer	Max Mark
2(b)	<p><b>Assessment Objective 1</b></p> <p>One mark for each correctly placed court.</p>	[3]
2(c)	<p><b>Assessment Objective 3</b> Claims for Debt</p>	[1]
2(d)	<p><b>Assessment Objective 3</b> South East</p>	[1]
2(e)	<p><b>Assessment Objective 3</b> North West</p>	[1]

Question Number	Answer	Max Mark
3(a)(i)	<p data-bbox="328 293 663 327"><b>Assessment Objective 1</b></p> <div data-bbox="376 347 588 591">  <p data-bbox="443 443 521 490">LAW LORDS</p> </div> <div data-bbox="472 591 491 618">↑</div> <div data-bbox="376 618 588 860">  <p data-bbox="435 701 529 770">APPEAL COURT JUDGES</p> </div> <div data-bbox="376 887 588 1128">  <p data-bbox="411 1077 553 1122">HIGH COURT JUDGE</p> </div> <div data-bbox="376 1149 588 1391">  <p data-bbox="395 1346 569 1368">CIRCUIT JUDGE</p> </div> <div data-bbox="376 1417 588 1659">  <p data-bbox="389 1615 572 1637">DISTRICT JUDGE</p> </div> <p data-bbox="328 1693 874 1727">One mark for each correctly placed judge.</p>	<p data-bbox="1358 1693 1398 1727"><b>[3]</b></p>

Question Number	Answer				Max Mark
3(b) (i – vi)	Assessment Objective 2				
	After my A levels I took a Law degree at university. After my degree I did a Legal Practice Course at the same university.	After my Legal Practice Course I obtained a Training Contract with a law firm which took two years.	I now work for the same firm I did my training contract with doing a mixture of work dealing with clients and appearing in the local Magistrates' court and County Court.	What am I?	I am a ... <ul style="list-style-type: none"><li>• Legal Executive</li><li>• <u>Solicitor</u></li><li>• Barrister</li><li>• Recorder</li></ul>
	After my GCSEs I got an office job in a local law firm. My employer offered to pay for me to take a professional diploma by doing evening classes at the local college.	I spent two years taking a level 3 professional diploma and then another 2 years taking a level 6 professional higher diploma whilst working for the same employer and gaining more experience.	I now work for the same firm as a legal professional in my own right. I specialise in the transfer of property and deal with clients directly.	What am I?	I am a ... <ul style="list-style-type: none"><li>• <u>Legal Executive</u></li><li>• District Judge</li><li>• Recorder</li><li>• Circuit Judge</li></ul>
	After my A levels I took a Law degree at university. After my degree I took the Bar Vocational Course (BVC) at the Inns of Court School of Law.	After the BVC I undertook a year of training called pupillage where I worked for two different senior lawyers for six months each and developed the advocacy skills I will need to become successful.	After my pupillage I got a place (called a tenancy) in a set of chambers although I am a self-employed lawyer. I specialise in property law and often appear in the High Court.	What am I?	I am a ... <ul style="list-style-type: none"><li>• Solicitor</li><li>• <u>Barrister</u></li><li>• District Judge</li><li>• Circuit Judge</li></ul>
	After qualifying as a solicitor I worked for a small firm specialising in family law.	After seven years in practice I applied to become a judge.	I now work as a full time judge in the local County court where I mainly deal with cases in the Small Claims Track.	What am I?	I am a ... <ul style="list-style-type: none"><li>• Solicitor</li><li>• Barrister</li><li>• <u>District Judge</u></li><li>• Circuit Judge</li></ul>
	After qualifying as a solicitor I worked for the Crown Prosecution Service as a solicitor-advocate specialising in prosecuting criminal cases in the Crown Court.	After ten years in practice I applied to become a full time judge.	I now work as a full-time judge in the Crown Court where I deal with criminal cases.	What am I?	I am a ... <ul style="list-style-type: none"><li>• Solicitor</li><li>• Barrister</li><li>• District Judge</li><li>• <u>Circuit Judge</u></li></ul>
	After qualifying as a barrister I worked in the County Court and High Court specialising in family law.	After ten years in practice I applied to become a part-time judge so that I could continue practice at the bar whilst also undertaking some judicial work.	I currently work as a part-time judge in the Crown Court where I deal with criminal cases sitting for 5 days a month. The rest of the time I continue to practice as a barrister.	What am I?	I am a ... <ul style="list-style-type: none"><li>• Legal Executive</li><li>• District Judge</li><li>• <u>Recorder</u></li><li>• Circuit Judge</li></ul>
One mark for each correctly identified professional.					

[6]

Question Number	Answer	Max Mark
3(c)(i)	<b>Assessment Objective 1</b> The Bar Council	[1]
3(c) (ii)	<b>Assessment Objective 1</b> The Law Society	[1]
3(c) (iii)	<b>Assessment Objective 1</b> ILEX	[1]
3(d)	<b>Assessment Objective 3</b> Candidates may discuss any of the following points: Use of and/or conclusions drawn from data table That judges are too white, male, middle class, middle-aged, public school educated, Oxbridge, institutionalised, conservative, pro-establishment, an oligarchy, unrepresentative of women, ethnic minorities and 'the young'. Candidates may draw any reasonable conclusions from such assertions (e.g. sexism and/or racism in sentencing etc.) Candidates may argue that the judiciary are a meritocracy, accountable, well respected, independent, talented etc. 0 marks for no response or no response worthy of credit Level 1 (1-2 marks): any basic point (1) or points (2) Level 2 (3-4 marks): 2/3 adequate points (3) with some development (4) Level 3 (5-6 marks): 3 or more good points (5) with development (6)	[6]
4(a)	<b>Assessment Objective 1</b> The Development of Human Rights In 1948, after the Second World War, an international organisation called the (1) International Committee of the Red Cross (2) <b>UNITED NATIONS</b> (3) International Criminal Court adopted the Universal Declaration of Human Rights. In 1950 the Council of Europe created the European Convention on Human Rights and a European Court of Human Rights.  Although the UK joined in 1950 it was not possible for UK citizens to take cases to the Court of Human Rights until 1966 and, even then, the UK could not be forced to comply with the convention meaning that UK citizens had no effective means of enforcing their human rights. All this changed in 1998 when the UK passed the (1) Freedom of Information Act (2) <b>HUMAN RIGHTS ACT</b> (3) Bill of Rights Act. This Act says that all UK laws (past or future) must be compatible (agree with) the European Convention on Human Rights.  Consequently, UK citizens may now protect their fundamental human rights in the (1) International Court of Justice (2) European Court of Justice (3) <b>UK COURTS</b> . However, it should be remembered that most of these rights are conditional and can be lawfully restricted in some circumstances.  One mark for each correctly chosen option.	[3]

Question Number	Answer	Max Mark
4(b)(i)	<b>Assessment Objective 1</b> Article 11 freedom of peaceful assembly and association	[1]
4(b)(ii)	<b>Assessment Objective 1</b> Article 10 freedom of expression	[1]
4(b)(iii)	<b>Assessment Objective 1</b> Article 14 freedom from discrimination	[1]
4(c)(i)	<b>Assessment Objective 2</b> liberty apart from lawful arrest under Article 5	[1]
4(c)(ii)	<b>Assessment Objective 2</b> freedom of expression under Article 10	[1]
4(c)(iii)	<b>Assessment Objective 2</b> freedom of peaceful assembly and association under Article 11	[1]
4(d)(i)	<b>Assessment Objective 1</b> To spy on people	[1]
4(d)(ii)	<b>Assessment Objective 1</b> Crime detection	[1]
4(d)(iii)	<b>Assessment Objective 1</b> 47.0% of people think that an alarm is sent if a CCTV camera is vandalised	[1]



Question Number	Answer	Max Mark
4(d)(iv)	<p><b>Assessment Objective 3</b></p> <p>Candidates may typically discuss: Any data, statements or conclusions drawn from the preceding data questions.</p> <p>Any advantages like:</p> <ul style="list-style-type: none"> <li>• Catches criminals/terrorists</li> <li>• Provides evidence of crime/terrorism</li> <li>• Reduces crime/terrorism</li> <li>• Makes people feel safer</li> <li>• Enables us to monitor the vulnerable</li> <li>• Deterrent value</li> <li>• Enforcement of taxes/congestion charges/parking regulation</li> <li>• Management of traffic and parking</li> </ul> <p>0 marks for no response or no response worthy of credit  Level 1 (1-2 marks): any basic point (1) or points (2);  Level 2 (3-4 marks): 2/3 adequate points (3) with some development (4);  Level 3 (5-6 marks): 3 or more good points (5) with development (6)</p>	[6]
	Paper Total	60

**Assessment Objectives Grid (includes QWC)**

<b>Question</b>	<b>AO1</b>	<b>AO2</b>	<b>AO3</b>	<b>Total</b>
<b>1</b>	3	0	3	<b>6</b>
<b>2</b>	6	9	3	<b>18</b>
<b>3</b>	6	6	6	<b>18</b>
<b>4</b>	9	3	6	<b>18</b>
<b>Totals</b>	<b>24</b>	<b>18</b>	<b>18</b>	<b>60</b>

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